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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,810	11/08/2005	Charlotte Selle Andersson	VALEA 3.3-024	6253
530 7590 02/04/2008 LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			EXAMINER ADAMS, GREGORY W	
			ART UNIT 3652	PAPER NUMBER
			MAIL DATE 02/04/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/529,810

Applicant(s)

ANDERSSON, CHARLOTTE
SELLE

Examiner

Gregory W. Adams

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

General Comments

The Dec. 14, 2007 office action did not note claim 21 in the write-up. At Applicants request and although it is apparent from the art the following new Final Rejection is being issued to include claim 21.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 11-12 & 14-18, 20-21 & 22-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Lyvers (US 4,249,853) (previously cited).

With respect to claims 1-3, 5, 11-12 & 14-18, 20-21 & 22-24, Lyvers discloses a roof box arrangement comprising:

- a container (indicated generally as 12) having an under part, an upper part, and at least two sides, A container having at least one open position and one closed position and being mountable on a vehicle 10; and
- a hoisting device 60 having a holder and capable of being positioned internally within a container, a hoisting device being mounted in such a way so as to be capable of pivoting to a rear and a side of a container in an outwardly pivoted position (C2/L45-64) relative to a container in an outwardly-pivoted position;
- and a vehicle 10.

Container can be open and closed by doors and disclosed by Lyvers. C2/L47. It is noted that the recitation "a roof box" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). And, the hoist of claims 1, 11, 14 & 20 must merely be capable of being connected in a container. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. For example a hoist that can bolt to a surface reads on the hoist of claims 1, 11, 14 & 20.

With respect to claim 4, Lyvers discloses a drawing device 96 and a feed roller (FIG. 4).

With respect to claim 6, Lyvers discloses a hoisting device attachment 94 and a support device 78, a hoisting device attachment being mountably connected to a support.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lyvers in view of Steffes et al. (US 5,827,036) (previously cited) in view of Document U (previously cited).

With respect to claim 7, Lyvers discloses opening/closing a container and does not disclose actuators. Steffes et al. discloses actuators (indicated generally as 12, 13; C7/L1-25) that helps "ensure that hood 16 remains open" during wheelchair loading/unloading. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Lyvers to include actuators, as per the teachings of Steffes et al., to maintain a container open during loading/unloading.

Lyvers does not disclose a crab actuator. Document U discloses a crab actuator was available as of Sept. 4, 2002 which "can achieve rotational motion ranges from 100 degrees to 360 degrees (depending on rack length) and torque capacity exceeding 5100 ft.-lbs. of force." Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Lyvers to include a crab actuator, as per the teachings of Document U, to increase torque capacity.

Claims 8-10, 13, 19 & 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lyvers in view of Steffes et al.

With respect to claims 8-9, 19 & 25, Lyvers discloses a first arm 58 and a second arm 60 pivotally attached and capable of actuation by an actuator, and does not disclose an actuator and lock. Steffes et al. discloses a lock and actuator 13 that pivots a first and second arm 14 that helps ensure that hood 16 remains open during wheelchair loading/unloading. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Lyvers to include a lock and actuator, as per the teachings of Steffes et al., to maintain a container open during loading/unloading.

With respect to claim 10, Lyvers discloses a support frame 18 and articulation 38.

With respect to claim 13, Lyvers does not disclose a control panel. Steffes et al. disclose a lift, powered by the vehicle's battery that "is remotely operable from the driver's seat of the vehicle using a handheld or dash mounted controller." Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Lyvers to include a control panel, as per the teachings of Steffes et al, to control by hand a lift.

Response to Arguments

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory W. Adams whose telephone number is (571) 272-8101. The examiner can normally be reached on M-Th, 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on (571) 272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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1/7/08


SAUL RODRIGUEZ
SUPERVISORY PATENT EXAMINER